

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

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UNITED STATES OF AMERICA,

Plaintiff,

ORDER

06-cr-174-bbc

v.

GREGORY J. BURKS,

Defendant.

- - - - -

UNITED STATES OF AMERICA,

Plaintiff,

ORDER

06-cr-117-bbc

v.

TIMOTHY HURNS,

Defendant.

- - - - -

UNITED STATES OF AMERICA,

Plaintiff,

ORDER

07-cr-18-bbc

v.

TODD TEMPLETON,

Defendant.

In orders entered on November 6, 2008, I granted the government's motion for postponement of the hearings scheduled in these cases after the Court of Appeals for the Seventh Circuit remanded them for re-sentencing in light of Begay v. United States, 128 S. Ct. 1581 (2008). The government based the motions on the possibility that the Supreme Court's decision in United States v. Chambers, 473 F.3d 724 (7th Cir. 2007), a case in which it granted certiorari on April 21, 2008.

Defendants object to the postponements. They argue that this court should follow the lead of the court of appeals, which declined to wait for the Supreme Court to decide Chambers before disposing of the many pending appeals raising the Begay issue.

I am not persuaded that there is any reason to proceed with the re-sentencings before Chambers is decided. It is highly unlikely that any of the defendants would be eligible for release from custody before the Supreme Court acts on Chambers, even if they were to be re-sentenced now. Moreover, all of the defendants would be within their rights to appear in person for re-sentencing, requiring the government to expend resources to bring them to Madison from the correctional institutions in which they are housed. This expenditure

would be wasted if the Chambers decision were to mandate a second re-sentencing.

ORDER

IT IS ORDERED that the November 6, 2008 order postponing the re-sentencings in these cases until after the United States Supreme Court has issued a decision in United States v. Chambers, is CONFIRMED over defendants' objections.

Entered this 10th day of November, 2008.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge